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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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APPROVED FOR FILING BY: [Signature]

DATE: 11/17/01

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EXAMINER

ART UNIT

PAPER NUMBER

1636  
DATE MAILED:

02/27/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/589,483

Applicant(s)

SUKHATME, VIKAS P

Examiner

Konstantina Katcheves

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other

***Restriction/Election***

Claims 1-39 are pending in the instant application.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 28 and 30, drawn to a method of producing angiostatin polypeptide, classified in class 435, subclass 69.1.
- II. Claims 29 and 31, drawn to angiostatin polypeptide, classified in class 530, subclass 350.
- III. Claims 32, 34, drawn to a method of producing endostatin polypeptide, classified in class 435, subclass 69.1.
- IV. Claims 33 and 35, drawn to endostatin polypeptide, classified in class 530, subclass 350.
- V. Claims 36 and 38, drawn to methods of producing restin polypeptide, classified in class 435, subclass 69.1.
- VI. Claims 37 and 39, drawn to restin polypeptide, classified in class 435, subclass 69.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I through VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions each relate to different proteins. For example, Groups I relate to angiostatin and method of producing angiostatin, endostatin and method of producing endostatin and restin and a method of producing restin. The instant inventions relate to different proteins that are

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structurally and functionally unrelated which renders them separate inventions. Because the proteins are so functionally and structurally unrelated, the methods of the above groups would comprise different products and method steps for the production of those proteins.

Because these inventions are distinct for the reasons given above and the search required for each of the above groups is not required for the others, restriction for examination purposes as indicated is proper.

Claims 1-27 appear in multiple groups due to their generic nature. Upon election of a group, said claims will be examined according to the limitations of the elected group.

Claims 1-4, 6, 8, 9, 14-17, 22, 23, 25 and 26 are generic to groups I, III and V. Claims 5, 7, 10, 11, 12, 13, 18-20, 24 and 27 are generic to groups II, IV and VI. Claim 21 drawn to a method of inhibiting angiogenesis in a mammal is also generic to groups II, IV and VI. Upon election of a group, said claims will be examined according to the limitations of the elected group.

A telephone call was made to attorney of record on 02 February 20001 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konstantina Katcheves whose telephone number is (703) 305-1999. The examiner can normally be reached on Monday through Friday 7:30 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader, can be reached on (703) 308-1133. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3014 for regular communications and (703) 305-7939 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the patent analyst, Dianiece Jacobs, whose telephone number is (703) 305-3388.

Konstantina Katcheves  
February 23, 2001



REMY YUCEL, PH.D  
PRIMARY EXAMINER